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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,929	01/24/2000	Richard A. Lodge	9-13528-77US	6470

20988 7590 11/04/2002  
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EXAMINER

TRAN, PABLO N

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/489,929

Applicant(s)

LODGE ET AL.

Examiner

Pablo N Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-18, 21-38 and 41-52 is/are rejected.
- 7) ☐ Claim(s) 19, 20, 39, 40, 53 and 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 08/21/02 have been fully considered but they are not persuasive.

Applicant stated, "Marturano et al. teach following suspension of resend request messages, the transmitting unit 101 continues to transmit data block". Examiner disagree with the Applicant, thus no where in the Marturano et al. reference that cited the transmitting unit continues to transmit data block, following the temporarily suspend the transmission of resend request messages. Marturano et al. disclosed that each receiving unit (base station) to temporarily suspend the transmission of resend request, thus preventing an inordinate number of re-transmission by the transmitting unit (wireless terminal) (see col. 5/ln. 54-57).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Specification***

2. The amendment filed 08/21/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: limitation "bi-directional".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 21-22, and 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by *Marturano et al.* (5,636,230).

As per claims 1, 21, and 41, *Marturano et al.* disclosed a base station (fig. 1/no. 102-103, col. 2/ln. 49) being adapted for bi-directional data communications with one or more wireless terminals (fig. 1/no. 101, col. 2/ln. 47) over a respective bi-directional wireless data communication links wherein the base station identify a poorly performing

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link and temporarily interrupting data transmission over the poorly performing wireless link (abstract, fig. 2-3, col. 3/ln. 39-col. 5/ln. 40, col. 5/ln. 54-57).

As per claims 2, 22, and 42, *Marturano et al.* further disclosed monitoring one or more performance parameters related to each wireless link and comparing each monitoring performance parameters to a respective predetermined threshold (col. 3/ln. 9-19).

As per claims 3-4, 13, 23-24, 33, 43-44, and 49, *Marturano et al.* further disclosed the performance parameters related to each wireless link are based on interference on the wireless link and comprises any one or more of a S/N ratio, a user data throughput rate, a C/I ratio, a BER ratio, or a number of suspend frames (col. 3/ln. 65-col. 4/ln. 7).

As per claims 5, 25, and 45, *Marturano et al.* further disclosed an average, taken over a number of successive burst, of any one or more of the S/N ratio, the C/I ratio, the user data throughput rate, or the BER ratio (col. 4/ln. 26-33).

As per claims 6, 14, 26, 34, 46, and 50, *Marturano et al.* further disclosed suspending transmission of a data frame over the poorly performing wireless link (col. 2/ln. 58-col. 4/ln. 15, where it is clear that the block of data is dropped when it is determined that it has been inadequately received and a request to re-transmitted the block of data).

As per claims 7 and 27, *Marturano et al.* further disclosed resuming transmission of the data frame after a delay period (col. 4/ln. 8-15).

As per claims 8, 16, 28, 36, *Marturano et al.* further disclosed the delay period is of random length (col. 4/ln. 16-40, where it is clear that the delay period is of random length due to the fact that until the portion of adequate data blocks has been received prior to the re-send counter has been reached).

As per claims 9, 17, 29, 37, 47, and 51, *Marturano et al.* further disclosed maintaining a count of dropped frames (col. 4/ln. 16-49, where it is clear that the counter keeps track of inadequate (dropped) received data blocks, see explanation in claim 6).

As per claims 10, 18, 30, 38, 48, and 52, *Marturano et al.* further disclosed suspending transmission if the count of suspended frames exceeds a predetermined threshold (col. 4/ln. 50-54).

As per claims 15 and 35, *Marturano et al.* further disclosed re-transmitting the dropped frame after a delay period (col. 4/ln. 40-49).

As per claim 11 and 31, *Marturano et al.* further disclosed restarting the transmission after a delay period (col. 4/ln. 63-col. 5/ln. 12).

As per claims 12 and 32, *Marturano et al.* further disclosed the delay is of random length (col. 4/ln. 63-col. 5/ln. 12).

#### ***Allowable Subject Matter***

5. Claims 19-20, 39-40, and 53-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bergenlid et al. (5,535,429), Kondo (6,081,727), Takai (6,128,507), Hoogerwerf et al. (5,819,171) disclose method for transmission disruption in a radiotelephone system.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Hunter, can be reached at (703)308-6732.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

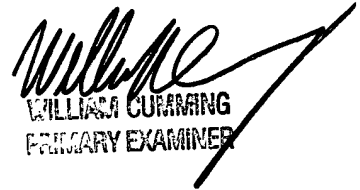
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

May 18, 2002

Pablo Tran

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WILLIAM CUMMING  
PRIMARY EXAMINER